IN THE HIGH COURT OF UTTARAKHAND AT NAINITAL.

Writ Petition No. 64(S/S)2005

Smt. Saraswati Sah W/o late Jeewan Lal Sah,
Ex-CHERA No. 51462,
Shanti Nagar, Bhotia Parao,
Haldawni, District Nainital. .....Petitioner.

Versus

1. Union of India through Secretary,
2. The Commodore, Bureau of Sailors,
   Cheetah Camp, Makhurd,
   Mumbai-400088,
3. The Chief of Naval Staff for Directorate of
   Pay & Allowances, Naval Headquarter,
   Sena Bhawan, DHQ, New Delhi -1100011.

.....Respondents.

None for the petitioner,
Sri Vikas Pandey, learned Standing Counsel for Union of India,

Hon'ble M.M. Ghildiyal, J.

Heard Sri Vikas Pandey, learned Standing Counsel for Union of India/respondents. None is present for the petitioner.

By means of this writ petition, the petitioner has prayed for the following reliefs:-

i. To issue a writ, order or direction in the nature of mandamus directing the respondents to release/grant the family pension to the petitioner,

ii. To issue any other writ, order or direction which this Hon'ble Court may deem fit and proper in the circumstances of the case,

Stand of the petitioner is that, the husband of the petitioner joined the Indian Navy on 14th August 1965, as an

apprentice and continued in service of Indian Navy upto 4th May 1979. On 17th January 1991, the husband of the petitioner expired. Thereafter on 25.09.2004 and on 17.11.2004, the petitioner made representations for providing her family pension. Since the petitioner was not granted family pension, she was constrained to file the present writ petition.

The respondents have filed counter affidavit. In para-4 of the counter affidavit, the respondents have submitted as below:-

"4.That the late sailor joined the service on 14.08.1965 and was discharged on 03.06.1979 on compassionate grounds, on completion of 13 years 9 months and 19 days of service. The minimum requirement for grant of pensionary benefit is fifteen years and accordance with regulation 78 of the Pension Regulation (Navy) 1964, the deficient period up to 12 months can be considered by the Integrated Headquarters, Ministry of Defence (Navy) for those sailors who have rendered qualifying service of 14 years or more and are also eligible for condonation in accordance with regulation 82 of pension regulation (Navy) 1964. That late sailor was discharged from service on compassionate ground. Therefore, the late sailor is not eligible for grant of condonation under existing regulation. The brief history of the late sailor's case is as follows:-

a-Date of birth	*24th Feb. 1949*
b-Date of enrollment	*14th Aug. 1965*
c-Date of discharge	*03rd Jan. 1979*
d-Reason for discharge	*Discharge on compassionate ground,*
e-Total qualifying service	*13 yrs, 09 months and 19 days,*
f-Date of Death	*07th Jan. 1991"*

Hence, from the averments made in para-4 of the counter affidavit, it is clear that the husband of the petitioner has not completed the qualifying service as required under Regulation 78 of the Pension Regulation (Navy) 1994 consequently, she

cannot be granted family pension. The writ petition lacks merit and is liable to be dismissed.

Accordingly, the writ petition is dismissed. No order as to costs.

(M.M. Ghildiyal, J.)

March 23, 2007:
NCM: